

HUMAN SERVICES BOARD

INTRODUCTION

1. The petitioner lives with her four minor children ranging in age from seven to thirteen years old. One child is ADHD (attention deficit hyperactivity disorder) and another has ADHD and OCD (obsessive compulsive disorder). Petitioner receives a five person RUFA grant.

2. On January 20, 2006, petitioner met with Rachael Grossman, Department Reach Up case manager, and Pat Barbieri, Department of Labor (DOL) Reach Up case manager. Petitioner was present with three of her children. The purpose of the meeting was to explore petitioner's interests and look at Community Service Placement (CSP) availability. Petitioner had last been employed or in a CSP approximately three months earlier. During the meeting, petitioner became upset, swore, and walked out of the meeting.

3. Grossman wrote petitioner on January 26, 2006 to set out what petitioner needed to do to avoid sanctions. Petitioner was given a deadline of February 1, 2006 to telephone Grossman to schedule an appointment to update petitioner's Family Development Plan (FDP). Because petitioner brought up a medical deferment on January 20, 2006 Grossman enclosed a medical deferment form and gave petitioner a deadline of February 8, 2006 to provide documentation of the need of a medical deferment.¹ Grossman was aware that petitioner was receiving counseling.

4. Petitioner and Grossman met on February 10, 2006 and completed an updated FDP. Petitioner's work requirement

¹ Petitioner has never provided documentation for a medical deferment during the pendency of this case.

was thirty hours per week but there was an agreement that petitioner could work less than thirty hours per week during the first thirty days of her FDP to give petitioner enough time to arrange after school care for her children and to attend counseling appointments for herself and family members. Based on the FDP, petitioner was to start a CSP on February 20, 2006².

5. Grossman sent petitioner a letter dated February 10, 2006 setting out that petitioner would start her CSP on February 20, 2006, would contact Barbieri by February 14, 2006 to schedule a meeting to discuss DOL protocol, and would meet with Barbieri no later than February 17, 2006 to set up the CSP. Grossman added that noncompletion of these requirements would result in a sanction.

6. After the January 20, 2006 meeting, petitioner was not allowed back into DOL until she met with Barbieri and her supervisors to discuss office protocol and behavior. That meeting was scheduled by DOL for February 24, 2006.

7. Barbieri scheduled a CSP for petitioner at Salvation Army to begin on February 21, 2006.

²Grossman realized later that February 20 was a holiday and verbally informed petitioner that the CSP would start February 21.

8. On February 17, 2006, Jane Foote, Grossman's supervisor, returned petitioner's call to Grossman. The case notes indicate that petitioner did not believe she could meet her requirements because she did not have child care. Petitioner was unhappy with her placement at Salvation Army and did not want to go there. The notes indicate that petitioner was angry at first and then upset and crying. The notes indicate Foote called petitioner back and left a message with numbers for Washington County Mental Health Services and LINCS.

9. On February 21, 2006, Grossman received a voicemail from petitioner that she was ill and two of her children were ill and she would be unable to work. Petitioner said she would not be able to work until March 8, 2006 because school was not in session the next week and she had no child care. Grossman called petitioner to explain she needed verification from either the petitioner's doctor or the children's doctor. On February 23, 2006, Grossman wrote petitioner and set out that petitioner needed to bring in by the close of February 27, 2006 a doctor's note that petitioner was too ill to work or a doctor's note for the children that they were out of school. Grossman wrote that petitioner should have the receptionist date stamp the note and ask for a copy of the

note. Grossman wrote that she expected petitioner to start the CSP at Salvation Army by March 8, 2006.

10. The petitioner did not bring in a doctor's note by February 27, 2006. Petitioner received two notes from Associates in Pediatrics dated February 28, 2006 indicating two of her children were seen, one on February 15 for strep throat and the other on February 21 for strep throat. Grossman received these notes in April of 2006. There was conflicting testimony whether petitioner attempted to give these notes to Grossman before April.

11. On February 24, 2006, petitioner met with Barbieri; David Lahr, DOL Regional Manager; and Sharon Habel, DOL Reach Up Supervisor. They discussed how to prevent future blow-ups. Petitioner asked Barbieri about finding a different site for a CSP. Barbieri testified that she told petitioner that she was welcome to find other sites to explore, but Barbieri did not tell petitioner she did not have to start at Salvation Army while other sites were considered.

12. Petitioner did not start her CSP with Salvation Army on March 8, 2006. Because petitioner had two prior conciliations dated August 14, 2002 and October 20, 2003, petitioner could no longer use the conciliation process. As a result, Grossman sent in a request for sanctions.

13. Petitioner testified that she thought she had until the end of March for a CSP placement. Petitioner testified that at the February 24, 2006 DOL meeting she was told by Habel that she had thirty days before starting a CSP. Barbieri testified that Habel did not make this statement.

14. Petitioner came into compliance with her FDP on June 20, 2006.

ORDER

The Department's decision to seek sanctions for the period of April 1, 2006 to June 20, 2006 is affirmed.

REASONS

Under the Reach Up program, petitioner has certain obligations to work with the Department in crafting a FDP and fulfilling the FDP requirements including the work requirements. Welfare Assistance Manual (W.A.M.) 2361 and 2362.1. If petitioner does not comply with the FDP requirements including attendance at meetings and fulfilling her CSP requirement, the petitioner can face financial sanctions unless there is good cause. W.A.M. 2370.1, 2371 and 2372.

Petitioner was not new to the Reach Up program and had participated in prior FDPs and their work or CSP

requirements. Petitioner worked with two Reach Up case managers. Grossman, the Department case manager, had primary responsibility to work with petitioner to develop the FDP, to supply support services, and to monitor petitioner's compliance with the FDP. The Department's contract with DOL brought Barbieri into petitioner's case, but Barbieri's role was limited to working with petitioner to find a CSP. Any changes to a CSP placement would need to be approved by Grossman.

In crafting the FDP, accommodations were made for petitioner by decreasing the hours of her CSP during the first month of her FDP.

Petitioner did not start her CSP on February 21, 2006 because of family illness. Grossman asked for verification from either the children's pediatrician or the petitioner's doctor as petitioner's reasons for missing her CSP could be covered by the good cause exceptions in W.A.M. 2370.32. Grossman requested documentation by February 27, 2006.³ Documentation was not forthcoming by February 27, 2006. The notes from the pediatrician are dated February 28, 2006. The

³ The petitioner argued that she was given insufficient time to meet different requests by Grossman because she had a small window of time between receipt of written requests and the deadline. However, Grossman's written requests memorialized earlier conversations with the petitioner so that the time requests were not unreasonable.

notes do provide documentation of good cause, but there is a dispute as to petitioner's attempts to give the notes to Grossman. However, sanctions can be terminated at any point if there is a determination of good cause. W.A.M. 2372. The delay in receiving the medical documentation is not a basis for sanctions.

The issue of sanctions stands on petitioner's failure to start her CSP with the Salvation Army by March 8, 2006. Due to petitioner's continuing child care difficulties, petitioner was given an extension to March 8, 2006 to start her CSP. Petitioner did not start her CSP at Salvation Army on March 8, 2006. Petitioner testified that she thought she had additional time to the end of March before starting a CSP.

The evidence from the Department controverts this assertion. Grossman and Barbieri's testimony clearly indicates that petitioner had been informed that petitioner was expected to start her CSP with the Salvation Army no later than March 8, 2006. In addition, there was no evidence that petitioner met any of the grounds for good cause that could excuse her failure to start her CSP by March 8, 2006.

Based on petitioner's failure to start her CSP by March 8, 2006, the Department is justified in seeking a sanction.

Petitioner is now in compliance with her FDP and has been in compliance since June 20, 2006. Accordingly, the Department's decision to seek a sanction for the period of April 1 to June 20, 2006 should be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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